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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

SAMIR A. GUIRGUIS et al.,

Plaintiffs, Cross-Defendants and
Respondents,

v.

EDWARD L. ESPOSITO,

Defendant, Cross-Complainant and
Appellant.

B235285

(Los Angeles County
Super. Ct. No. BC417094)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Luis Lavin, Judge. Dismissed.

Law Office of Maria Victoria Grabhorn and Maria Victoria Grabhorn, for
Defendant, Cross-Complainant and Appellant.

The Garcia Firm and Gilbert A. Garcia, for Plaintiffs, Cross-Defendants and
Respondents.

Attorney Edward L. Esposito appeals from the trial court's judgment dismissing his cross-complaint against his former clients, Samir A. Guirguis and Nereen G. Guirguis. Because the court did not sign its minute order and did not enter a final judgment, we dismiss the appeal for lack of appellate jurisdiction.

FACTS AND PROCEEDINGS

Respondents Samir A. Guirguis and Nereen G. Guirguis retained appellant attorney Edward Esposito to represent them in a lawsuit in Orange County. The lawsuit's jury trial did not go well for respondents. Finding for respondents' opponents, the jury awarded the opponents more than half a million dollars in damages. As a consequence, respondents sued appellant for legal malpractice for allegedly mishandling the Orange County lawsuit. Appellant cross-complained against respondents for over \$19,000 in unpaid legal fees. While the complaint and cross-complaint were pending, appellant filed a petition for bankruptcy under Chapter 7 of the Bankruptcy Code.

Appellant filed a Statement of Financial Affairs in the bankruptcy court. The Statement of Financial Affairs anticipated appellant's bankruptcy estate would possess no funds to pay appellant's unsecured creditors. In January 2011, the bankruptcy proceeding ended with the bankruptcy court discharging appellant's debts. The trial court thereafter on its own motion issued an order to show cause whether respondent's malpractice complaint against appellant had been discharged in bankruptcy, and whether appellant could pursue his cross-complaint against respondents for unpaid legal fees. Following briefing and a hearing, the court found respondents' malpractice complaint had been discharged. Additionally, the court found appellant was judicially estopped from pursuing his cross-complaint against respondents for unpaid legal fees because he had not identified his cross-complaint in his Statement of Financial Affairs. The court told appellant, "I don't think you actually disclosed the cross-complaint in your bankruptcy filing; and, in fact, looking at the documents that you submitted [to the bankruptcy court] establish that this was a so-called no asset case. . . . [S]o the representation made to the Bankruptcy Court was that [you] had no assets. By that I would assume that would

include the possibility of recovery in the cross-complaint. . . . [T]he only thing that’s listed in the petition is the actual complaint. It doesn’t make any reference to the cross-complaint” The court’s unsigned minute order stated, “The entire action is dismissed without prejudice on the Court’s own motion as a result of the Bankruptcy Discharge.” This appeal followed.

DISCUSSION

The trial court did not sign its minute order dismissing appellant’s cross-complaint, nor did it reduce the order to a final judgment. “The lack of a written order of dismissal signed by the trial court [means] . . . there is no final judgment that might serve as a basis for appellate jurisdiction.” (*Powell v. County of Orange* (2011) 197 Cal.App.4th 1573, 1578; Code Civ. Proc., § 581d.) In the absence of appellate jurisdiction, we may not entertain this appeal, but must instead dismiss it. (*Id.* at p. 1579; *Jennings v. Marralle* (1994) 8 Cal.4th 121, 126 [“The existence of an appealable judgment [or order] is a jurisdictional prerequisite to an appeal.”]; *City of Gardena v. Rikuo Corp.* (2011) 192 Cal.App.4th 595, 598.)

DISPOSITION

The appeal is dismissed. Respondents to recover their costs on appeal.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.